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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10

11  
12 EDVIN KESHISHYAN,

13 Plaintiff,

14 vs.

15 PORTFOLIO RECOVERY  
ASSOCIATES, LLC,

16 Defendant.  
17 \_\_\_\_\_

CASE NO.: 2:12-CV-08600-ABC-JEM

**ANSWER TO COMPLAINT BY  
DEFENDANT PORTFOLIO  
RECOVERY ASSOCIATES, LLC**

1 Defendant PORTFOLIO RECOVERY ASSOCIATES, LLC (“Defendant”)  
2 hereby submits the following Answer to the Complaint (“Complaint”) filed in this  
3 action by plaintiff EDVIN KESHISHYAN (“Plaintiff”):

4 1. In answering Paragraph 1 of the Complaint, Defendant avers that the  
5 contents of the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §§  
6 1788, *et seq.* (“Rosenthal Act”), and the Fair Debt Collection Practices Act, 15  
7 U.S.C. §§ 1692, *et seq.* (“FDCPA”), are self-explanatory. Defendant can neither  
8 admit nor deny whether Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3),  
9 because Defendant lacks knowledge or information sufficient for form a belief about  
10 the truth of the allegation that Plaintiff’s financial obligation was incurred primarily  
11 for personal, family or household purposes, and on that basis Defendant denies the  
12 allegation. Defendant denies that it violated the Rosenthal Act, FDCPA, or the  
13 Telephone Consumer Protection Act, 47 U.S.C. §§ 227, *et seq.* Except as herein  
14 admitted, the remaining allegations of Paragraph 1 are denied.

15 2. In answering Paragraph 2 of the Complaint, Defendant lacks  
16 information and knowledge sufficient to form a belief about the truth of the  
17 allegation that Plaintiff is a natural person residing in Los Angeles county, and on  
18 that basis Defendant denies the allegation. Defendant can neither admit nor deny  
19 whether Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3) or a “debtor”  
20 as defined by Cal. Civ. Code § 1788.2(h) because Defendant lacks knowledge or  
21 information sufficient for form a belief about the truth of the allegation that  
22 Plaintiff’s financial obligation was incurred primarily for personal, family or  
23 household purposes, and on that basis Defendant denies the allegations. Except as  
24 herein admitted, the remaining allegations of Paragraph 2 are denied.

25 3. In answering Paragraph 3 of the Complaint, Defendant admits that it is a  
26 company which, at times, conducts certain business by use of the mails and  
27 telephone within this judicial district. Defendant lacks knowledge or information  
28 sufficient to form a belief about the truth of the allegation that the financial

1 obligations referred to in Paragraph 3 were incurred primarily for personal, family or  
 2 household purposes and therefore can neither admit nor deny whether the financial  
 3 obligation is a “debt” as defined by 15 U.S.C. § 1692a(5) or a “consumer debt” as  
 4 defined by Cal. Civ. Code § 1788.2(f), nor whether it was acting as a “debt collector”  
 5 as defined by 15 U.S.C. § 1692a(6) and Cal. Civ. Code § 1788.2(c) for the purposes  
 6 of this action, and on that basis Defendant denies the allegations. Except as herein  
 7 admitted, the remaining allegations of Paragraph 3 are denied.

8         4. In answering Paragraph 4 of the Complaint, Defendant lacks knowledge  
 9 or information sufficient to form a belief about the truth of the allegation that the  
 10 financial obligations referred to in Paragraph 3 were incurred primarily for personal,  
 11 family or household purposes and therefore can neither admit nor deny whether the  
 12 financial obligation is a “debt” as defined by 15 U.S.C. § 1692a(5) or a “consumer  
 13 debt” as defined by Cal. Civ. Code § 1788.2(f), nor whether it was acting as a “debt  
 14 collector” as defined by 15 U.S.C. § 1692a(6) and Cal. Civ. Code § 1788.2(c) for the  
 15 purposes of this action. Defendant admits that it attempted to contact Plaintiff.  
 16 Except as herein admitted, the remaining allegations of Paragraph 4 are denied.

17         5. Defendant denies the allegations in Paragraph 5 of the Complaint.

18         6. Defendant denies the allegations in Paragraph 6 of the Complaint,  
 19 including subparagraphs (a) through (e).

20         7. Defendant denies the allegations in Paragraph 7 of the Complaint,  
 21 including subparagraph (a).

22         8. In answering paragraph 8 of the Complaint, Defendant denies all  
 23 allegations of wrongdoing and denies that Plaintiff is entitled to any relief requested.

24         9. In answering Paragraph 9 of the Complaint, Defendant incorporates by  
 25 reference paragraphs 1 through 8 above as if fully set forth herein.

26         10. In answering paragraph 10 of the Complaint, Defendant denies all  
 27 allegations of wrongdoing and denies that Plaintiff is entitled to any relief requested.  
 28

1           11. In answering Paragraph 11 of the Complaint, Defendant incorporates by  
2 reference paragraphs 1 through 10 above as if fully set forth herein. Defendant  
3 denies all allegations of wrongdoing and denies that Plaintiff is entitled to any relief  
4 requested.

5           12. In answering Paragraph 12 of the Complaint, Defendant incorporates by  
6 reference paragraphs 1 through 11 above as if fully set forth herein.

7           13. In answering paragraph 13 of the Complaint, Defendant denies all  
8 allegations of wrongdoing and denies that Plaintiff is entitled to any relief requested.

9  
10                                   **AFFIRMATIVE DEFENSES**

11           As and for separate affirmative defenses to the Complaint, Defendant alleges  
12 as follows:

13                                   **FIRST AFFIRMATIVE DEFENSE**

14                                   **(Failure to State a Claim)**

15           The allegations of the Complaint fail to state a claim against Defendant upon  
16 which relief can be granted.

17                                   **SECOND AFFIRMATIVE DEFENSE**

18                                   **(Statute of Limitations/Laches)**

19           The purported claims set forth in the Complaint are barred in whole or in part  
20 by the applicable statutes of limitation and/or the equitable doctrine of laches.

21                                   **THIRD AFFIRMATIVE DEFENSE**

22                                   **(Bona Fide Error)**

23           To the extent that any violation of law occurred, which Defendant expressly  
24 denies, said violation was not intentional and resulted from a bona fide error  
25 notwithstanding the maintenance by Defendant of procedures reasonably adapted to  
26 avoid any such error.

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**FOURTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

The allegations in the Complaint and relief requested are on information and belief barred in whole or in part by the doctrine of unclean hands.

**FIFTH AFFIRMATIVE DEFENSE**

**(No Willful Conduct)**

Defendant acted in good faith at all times in its dealings with Plaintiff, and if any conduct by Defendant is found to be unlawful, which Defendant expressly denies, such conduct was not willful and should not give rise to liability.

**SIXTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate)**

Plaintiff, although under a legal obligation to do so, has failed to take reasonable steps to mitigate any alleged damages that he may have and is therefore barred from recovering damages, if any, from Defendant.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Waiver)**

Plaintiff has waived his rights, if any, to recover the relief he seeks in the Complaint based upon his own conduct and admissions with respect to the financial obligation at issue.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Good Faith)**

Defendant has, at all material times with respect to Plaintiff, acted in good faith in an effort to comply fully with all relevant federal and state laws.

**NINTH AFFIRMATIVE DEFENSE**

**(Apportionment)**

Without admitting that any damages exist, if damages were suffered by Plaintiff as alleged in the Complaint, those damages were proximately caused by and contributed by persons other than Defendant. The liability, if any exists, of

1 Defendant and/or any responsible parties, named or unnamed, should be apportioned  
2 according to their relative degrees of fault, and the liability of Defendant should be  
3 reduced accordingly.

4 **TENTH AFFIRMATIVE DEFENSE**

5 **(Supervening Cause)**

6 The causes of action in the Complaint are barred, in whole or in part, to the  
7 extent that any injury or loss sustained was caused by intervening or supervening  
8 events over which Defendant had or has no control.

9 **ELEVENTH AFFIRMATIVE DEFENSE**

10 **(Equitable Indemnity)**

11 To the extent that Plaintiff has suffered any damage as a result of any alleged  
12 act or omission of Defendant, which Defendant denies, Defendant is entitled to  
13 equitable indemnity according to comparative fault from other persons and/or entities  
14 causing or contributing to such damages, if any.

15 **TWELFTH AFFIRMATIVE DEFENSE**

16 **(First Amendment)**

17 Defendant's conduct is protected under the First Amendment of the United  
18 States Constitution and the California Constitution. Plaintiff's proposed  
19 interpretation of provisions of the FDCPA and the Rosenthal Act must be rejected as  
20 it would place an unreasonable restraint upon Defendant's First Amendment rights,  
21 thereby raising serious constitutional issues.

22 **THIRTEENTH AFFIRMATIVE DEFENSE**

23 **(Materiality)**

24 To the extent that any of the communications by Defendant are deemed to be  
25 false or misleading, which Defendant expressly denies, they were not materially false  
26 or misleading and therefore are not actionable under the FDCPA and Rosenthal Act.

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**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Standing)**

Plaintiff has not suffered any injury in Complaint as a result of Defendant's alleged conduct and therefore lacks standing to sue.

WHEREFORE, Defendant requests judgment as follows:

1. That Plaintiff takes nothing by the Complaint, which should be dismissed with prejudice.
2. That Defendant recover from Plaintiff costs according to proof.
3. That Defendant recover attorneys' fees according to proof.
4. That the Court orders such other further reasonable relief as the Court may deem just and proper.

DATED: October 12, 2012

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LINDSEY A. MORGAN

By: s/Lindsey A. Morgan  
Lindsey A. Morgan  
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